

☒ 37 CFR § 1.17(a)(3) - Extension within third month

☐ 37 CFR § 1.17(a)(4) - Extension within fourth month.

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Election

Applicants confirm their election of Group I, claims 1-12.

Amendment

In the claims

Please amend claims 1, 4, and 8 as shown in Attachment A, where markings are provided to show the changes being made.

Please cancel non-elected claims 13-18 without prejudice. ✓

All the pending claims as amended are provided in Attachment B in clean format.

Remarks

Reconsideration and continued prosecution of this application is respectfully requested in view of the amendments described above and the remarks that follow.

Claims 1, 4, and 8 are being amended. In claims 1 and 8, the preamble is being shortened for simplicity. Further, the term "infusible" is being added to describe the second adhesive layer, support for which can be found e.g. at page 5 lines 17-21 of the specification. No new matter has been added. In claim 4, the "capable of" language is being deleted as unnecessary and the term "activated" is being inserted in its place, in accordance e.g. with page 10 line 26 to page 11 line 4 of the specification. Also, a period is being added to the end of claim 4. No new matter has been added. The non-elected claims are being cancelled without prejudice.

In the Office Action, claim 4 was rejected under 35 U.S.C. § 112, 1st paragraph, as containing subject matter not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention, due to the language in the claim indicating the first adhesive layer is capable of permanently bonding the backing layer to a garment. The Examiner indicated it was unclear how the first layer could achieve such a bond when there is a (second) adhesive layer between the first adhesive layer and the garment. Applicants respectfully traverse.

The specification clearly describes labels having a backing layer, a first adhesive layer comprising a heat activatable adhesive, and a second adhesive layer comprising an elastomeric microsphere adhesive, and demonstrates that such articles can be permanently bonded to a garment (see e.g. Table 1) despite the presence of the second adhesive layer in the initial product. Indeed, the Examiner's objection is testament to the nonobviousness of the claimed combination. Upon review, however, it was recognized that the "capable of" phrase could be replaced with the simple term "activated" with no loss in scope of the claim. Claim 4 was also rejected under 35 U.S.C. § 112, 2nd paragraph in connection with "permanently bonding ... to a garment ..." language. The amendment to claim 4 referred to above omits the "permanently bonding ... to a garment" language in favor of the simpler "activated" terminology, thus more clearly setting forth the properties of the first adhesive layer. The rejection of claim 4 should thus be withdrawn.

Claims 1 and 8 were rejected under 35 U.S.C. § 112, 2nd paragraph due to the language "suitable for" in the preamble. As indicated above, upon further review the objected-to language was recognized as unnecessary, and has been deleted from the subject claims. Withdrawal of the rejection is respectfully requested.

The Office Action rejected claims 1-12 as obvious over U.S. Patent 3,758,192 (Bingham) in view of U.S. Patent 4,166,152 (Baker et al.), arguing that it would have been obvious to replace the second thermoplastic adhesive (28 in FIG. 7 of Bingham) with the combined microsphere/hot melt adhesive discussed in Baker et al.

Applicants respectfully traverse. Applicants have further specified in independent claims 1 and 8 that the second adhesive layer comprising an elastomeric microsphere adhesive is "infusible". Such a layer is distinguishable from Baker et al.'s (fusible) hot melt adhesive layer containing elastomeric microspheres. The combination suggested in the Office Action, therefore, does not render claims 1 or 8, or their dependent claims, obvious. Nor would it be apparent, as indicated also by the Examiner's comments in paragraph 7 of the Office Action, how the combination set forth in claims 1 and 8 would yield a label that is both repositionable and permanently affixible to a garment or other substrate. Note for example that Baker et al. states that the polymer microspheres, upon being heated, typically do not melt or flow, but retain their integrity until their carbonization temperature is reached (col. 4 lines 32-35). Amended claims 1

and 8, and their respective dependent claims 2-7 and 9-12, therefore are submitted to be allowable over the references and the rejection should be withdrawn.

Conclusion

The claims as amended are submitted to be in condition for allowance for the reasons given above, the early indication of which is earnestly solicited.

Beyond the fee associated with the extension of time under Rule 136(a), no additional fees are believed to be due by submission of this paper. If this belief is in error, please charge any required fees to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

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Date

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**Attachment A – Claims Being Amended
(With Markings to Show Changes)**

1. (Amended) A label [suitable for affixing to a garment], [said label] comprising in the order given:
 - a backing layer (16);
 - a first adhesive layer (18) comprising a heat activatable adhesive; and
 - a second infusible adhesive layer (28) comprising an elastomeric microsphere adhesive.

4. (Amended) A label according to any of claims 1-3, wherein said first adhesive layer is non-tacky at temperatures less than 25°C and wherein said first adhesive layer is [capable of permanently bonding said backing layer to a garment] activated when heated to a temperature between 100°C and 180°C.

8. (Amended) A label [suitable for affixing to a garment], [the label] comprising:
 - a backing layer (16) having a first and second major side;
 - a first adhesive layer (18) comprising a heat activatable adhesive and carried by the first major side of the backing layer;
 - a second infusible adhesive layer (28) comprising an elastomeric microsphere adhesive and carried by the first adhesive layer; and
 - means for retroreflecting light carried by the second major side of the backing layer.

**Attachment B – All Pending Claims
(Clean Format)**

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1. (Amended) A label, comprising in the order given:

- a backing layer (16);
- a first adhesive layer (18) comprising a heat activatable adhesive; and
- a second infusible adhesive layer (28) comprising an elastomeric microsphere adhesive.

2. A label according to claim 1, wherein said second adhesive layer is provided directly on said first adhesive layer.

3. A label according to claim 1 or 2, wherein said backing layer has a first and second major side, said first major side being retroreflective and said second major side carrying said first and second adhesive layers.

4. (Amended) A label according to any of claims 1-3, wherein said first adhesive layer is non-tacky at temperatures less than 25°C and wherein said first adhesive layer is activated when heated to a temperature between 100°C and 180°C.

5. A label according to any of the previous claims wherein said backing layer has a first and second major side, said first major side carrying a removable protective layer (11, 12) and said second major side carrying said first and second adhesive layers.

6. A label according to any of the previous claims further comprising a removable layer (26) protecting said second adhesive layer.

7. A label according to any of the previous claims wherein the thickness of said second adhesive layer is between 10µm and 40µm.

8. (Amended) A label, comprising:

- a backing layer (16) having a first and second major side;

a first adhesive layer (18) comprising a heat activatable adhesive and carried by the first major side of the backing layer;

a second infusible adhesive layer (28) comprising an elastomeric microsphere adhesive and carried by the first adhesive layer; and

means for retroreflecting light carried by the second major side of the backing layer.

9. The label of claim 8, wherein the second adhesive layer is provided directly on the first adhesive layer.

10. The label of claim 8, wherein the retroreflecting means comprises elements selected from the group consisting of microspheres and cube corner elements.

11. The label of claim 10, wherein the retroreflecting means comprises glass beads.

12. The label of claim 8, further comprising:

a protective layer covering the retroreflecting means.